

## SENATE BILL No. 420

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-8; IC 33-3-5-7; IC 33-5-37.7-5; IC 33-10.5-5-2; IC 33-13-12-7.1; IC 33-13-12-9.

**Synopsis:** Public officers compensation commission. Establishes the public officers compensation commission. Allows the commission to adopt rules to set the salaries of the justices of the supreme court, the judges of the court of appeals, the judge of the tax court, and the judges of the circuit, superior, probate, and county courts. Permits the general assembly to establish salaries by statute and to void a salary rule of the commission. Removes current salaries of judicial officers from statute.

**Effective:** Upon passage.

**Clark**

January 10, 2002, read first time and referred to Committee on Rules and Legislative Procedure.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 420

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 2-8 IS ADDED TO THE INDIANA CODE AS A  
2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON**  
3 **PASSAGE]:**

### **ARTICLE 8. COMPENSATION OF PUBLIC OFFICERS**

#### **Chapter 1. General Provisions**

6 **Sec. 1. Notwithstanding IC 1-1-1-8, the provisions of this article**  
7 **are not severable.**

#### **Chapter 2. Definitions**

9 **Sec. 1. The definitions in this chapter apply throughout this**  
10 **article.**

11 **Sec. 2. "Commission" refers to the public officers compensation**  
12 **commission established by IC 2-8-3-1.**

13 **Sec. 3. "Political subdivision" has the meaning set forth in**  
14 **IC 36-1-2-13.**

15 **Sec. 4. "Public employee" refers to any of the following:**

16 **(1) An employee of the state.**

17 **(2) An employee of a political subdivision.**



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(3) An employee of any other entity whose salary is paid in any part from funds derived from taxes imposed by the state or a political subdivision.

**Sec. 5. "Public officer" refers to any of the following:**

- (1) A justice of the supreme court of Indiana.
- (2) A judge of the Indiana court of appeals.
- (3) A judge of the Indiana tax court.
- (4) A judge of a circuit, superior, probate, or county court.

**Chapter 3. Public Officers Compensation Commission**

**Sec. 1.** The public officers compensation commission is established.

**Sec. 2. (a)** The commission consists of the following members:

- (1) Two (2) members appointed by the president pro tempore of the senate.
- (2) Two (2) members appointed by the speaker of the house of representatives.
- (3) One (1) member appointed by the minority leader of the senate.
- (4) One (1) member appointed by the minority leader of the house of representatives.
- (5) One (1) member appointed by the chief justice of the supreme court of Indiana.
- (6) One (1) member appointed by the chief judge of the Indiana court of appeals.
- (7) Three (3) members appointed by the governor. Not more than two (2) members appointed under this subdivision may be affiliated with the same political party. At least one (1) member appointed under this subdivision must be regularly engaged in the field of business finance or business management. At least one (1) member appointed under this subdivision must be experienced in the field of labor and management relations.

**(b)** A public officer or a public employee may not be a commission member.

**Sec. 3. (a)** The term of a commission member begins on the later of the following:

- (1) July 1 after the member is appointed.
- (2) The day the member accepts the member's appointment.
- (b)** The term of a commission member expires on July 1 of the fourth year after the year the member's term begins.
- (c)** A member may be reappointed to serve a new term.

**Sec. 4. (a)** If there is a vacancy on the commission, the public

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1 officer who appointed the member whose position is vacant shall  
 2 appoint an individual to fill the vacancy as provided in section 2 of  
 3 this chapter.

4 (b) The member appointed under this section shall fill the  
 5 vacancy for the remainder of the unexpired term.

6 Sec. 5. (a) At the commission's last meeting before July 1 of each  
 7 year, the commission shall elect one (1) member to be chair of the  
 8 commission.

9 (b) The member who is elected chair of the commission serves  
 10 as chair beginning July 1 after election by the commission.

11 Sec. 6. Six (6) commission members constitute a quorum. The  
 12 affirmative vote of at least six (6) commission members is  
 13 necessary for the commission to take official action other than to  
 14 adjourn or to meet to hear reports or testimony.

15 Sec. 7. The commission shall meet at least two (2) times each  
 16 odd-numbered year at the call of the chair. The commission may  
 17 meet at other times as the commission considers necessary.

18 Sec. 8. Each member of the commission is entitled to the  
 19 following:

20 (1) The salary per diem provided under IC 4-10-11-2.1(b).

21 (2) Reimbursement for traveling expenses as provided under  
 22 IC 4-13-1-4.

23 (3) Other expenses actually incurred in connection with the  
 24 member's duties as provided in the state policies and  
 25 procedures established by the Indiana department of  
 26 administration and approved by the budget agency.

27 Sec. 9. The legislative services agency shall provide  
 28 administrative support for the commission. At the request of the  
 29 legislative services agency the Indiana judicial center established  
 30 by IC 33-13-14-2 shall assign staff to provide research and other  
 31 support to assist the legislative services agency in providing  
 32 administrative support to the commission.

33 Sec. 10. The legislative services agency may contract with  
 34 consultants on behalf of the commission as the commission  
 35 considers necessary to implement this chapter.

36 Sec. 11. The commission may adopt rules under IC 4-22-2 to fix  
 37 salaries of public officers.

38 Sec. 12. The commission may adopt bylaws to govern  
 39 commission proceedings. A bylaw is not required to be adopted as  
 40 a rule under IC 4-22-2.

41 Sec. 13. The commission shall make reports to the general  
 42 assembly as required by the legislative council.

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1        **Sec. 14. There is annually appropriated to the legislative**  
 2 **services agency from the state general fund the amount of money**  
 3 **necessary for the operation of the commission.**

4        **Chapter 4. Adoption of Rules to Set Salaries of Public Officers**

5        **Sec. 1. The commission shall meet at least one (1) time before**  
 6 **April 1 of each odd-numbered year to do the following:**

7            (1) **Receive information relating to the salaries of public**  
 8 **officers.**

9            (2) **Consider recommendations for suitable salaries for public**  
 10 **officers.**

11            (3) **Take testimony relating to the salaries of public officers.**

12            (4) **Adopt, if necessary, proposed rules to set the salaries of**  
 13 **public officers.**

14        **Sec. 2. (a) The commission shall meet at least one (1) time after**  
 15 **March 31 and before July 1 of each odd-numbered year to adopt**  
 16 **final rules based on proposed rules adopted under section 1 of this**  
 17 **chapter.**

18            (b) **The commission must adopt a separate rule for each**  
 19 **separate public officer listed in IC 2-8-2-5.**

20            (c) **The commission is not required to adopt or amend a rule to**  
 21 **change the salary of a public officer if the commission considers**  
 22 **the current salary suitable.**

23            (d) **If the commission does not adopt a rule relating to the salary**  
 24 **of a public officer, the salary of the public officer is the salary**  
 25 **provided by law.**

26        **Sec. 3. A final rule adopted under section 2 of this chapter must**  
 27 **be published in the September edition of the Indiana Register.**

28        **Sec. 4. (a) When determining a suitable salary for a public**  
 29 **officer, the commission may consider the following:**

30            (1) **The responsibilities of the office.**

31            (2) **The educational background required or desired for an**  
 32 **individual who holds the office.**

33            (3) **The skills required or desired for the office.**

34            (4) **The experience required or desired for the office.**

35            (5) **The time required or desired to be spent to fulfill the**  
 36 **duties of the office.**

37            (6) **The opportunity or lack of opportunity that an individual**  
 38 **who holds the office has to earn other income.**

39            (7) **The salaries paid to government officers in other states**  
 40 **that have comparable duties and authority.**

41            (8) **Salaries paid to comparable professionals in the private**  
 42 **sector in Indiana and other comparable states based on the**

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responsibility and discretion required from or desired in an individual who holds the office.

(9) The increase in the cost of living in Indiana since the most recent increase in the salary of the public officer.

(10) Benefits other than salaries provided to public officers.

(11) Ability to attract and retain qualified individuals to be public officers.

(12) The interests and welfare of the public.

(13) The financial ability of the state to meet the costs of salaries recommended by the commission.

(14) Other factors the commission considers relevant.

(b) The commission may give the weight to the factors described in subsection (a) that the commission considers appropriate.

(c) The commission has no authority over benefits other than salaries. However, the commission may make recommendations to the general assembly concerning benefits other than salaries.

Sec. 5. A rule adopted by the commission to set the salaries of a public officer takes effect on January 1 of the next odd-numbered year if the general assembly has not voided the rule.

Sec. 6. A rule relating to the salary of a public officer may not diminish the compensation of the public officer below its level at the time the rule becomes effective.

Sec. 7. This article does not affect the authority of the general assembly to do the following:

(1) Set salaries of public officers by statute.

(2) Void a rule of the commission by statute before the rule takes effect.

Sec. 8. (a) If the general assembly voids a rule of the commission or repeals a statute that sets the salary of a public officer, the salary of the public officer is the salary of the public officer set in the most recent rule or statute in effect.

(b) If the general assembly voids a rule of the commission or repeals a statute that sets the salary of a public officer, the commission shall adopt a rule that states the salary of the public officer set in the most recent rule or statute in effect.

SECTION 2. IC 33-3-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The judge of the tax court is entitled to an annual salary:

(1) equal to the annual salary provided in IC 33-13-12-9 to a judge of the court of appeals before January 1, 2003; and

(2) set under IC 2-8 after December 31, 2002.

(b) In addition, the judge of the tax court is entitled to the following:



(1) Reimbursement for traveling expenses and other expenses actually incurred in connection with the judge's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(2) A subsistence allowance equal to the amount provided under IC 33-13-12-9 to a judge of the court of appeals who is not the chief judge of the court of appeals.

~~(b)~~ (c) The judge of the tax court:

(1) shall devote full time to judicial duties; and

(2) may not engage in the practice of law.

~~(c)~~ (d) The state shall pay the annual salary prescribed in subsection (a) from the state general fund.

~~(d)~~ (e) The state shall furnish an automobile to the judge of the state tax court.

SECTION 3. IC 33-5-37.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The judge of the court is entitled to the salary set: ~~out~~

(1) in IC 33-13-12 before January 1, 2003; and

(2) under IC 2-8 after December 31, 2002.

The salary shall be paid in the same manner as the salary of a circuit court judge, and the portion of the salary to be paid by the counties shall be paid by Ohio and Switzerland counties in equal portions.

SECTION 4. IC 33-10.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The salary of a county court judge who serves more than one (1) county shall be paid by the respective counties in equal amounts.

(b) The salary of every county court judge, as set:

(1) by IC 33-13-12 before January 1, 2003; and

(2) under IC 2-8 after December 31, 2002;

shall be paid in equal monthly installments.

SECTION 5. IC 33-13-12-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1. (a) The total annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is:

(1) ninety thousand dollars (\$90,000) and before January 1, 2003; and

(2) the salary set under IC 2-8 after December 31, 2002;

plus any additional salary provided under IC 36-2-5-14 or IC 36-3-6-3(c). The state shall pay all of the total salary except for the additional salary, if any, under IC 36-2-5-14 or IC 36-3-6-3(c). The state shall deposit quarterly the money received from the counties

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under subsection (c) in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

(1) the payment made on behalf of that judge;

(2) previous payments made on behalf of that judge in the same calendar year; and

(3) the state share of the judge's salary under subsection (a); exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total does exceed the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

(1) is established by the state;

(2) applies to a judge who is covered by this section; and

(3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

SECTION 6. IC 33-13-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The total annual salary for each justice of the supreme court of Indiana is:

**(1) one hundred fifteen thousand dollars (\$115,000) before January 1, 2003; and**

**(2) the salary set under IC 2-8 after December 31, 2002.**

(b) The total annual salary for each judge of the **Indiana** court of appeals ~~of Indiana~~ is:

**(1) one hundred ten thousand dollars (\$110,000) before January**



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1 **1, 2003; and**

2 **(2) the salary set under IC 2-8 after December 31, 2002.**

3 (c) The state shall pay the annual salaries prescribed in subsections  
4 (a) through (b) from the state general fund.

5 (d) In addition to ~~said~~ the salary, there shall be paid in equal  
6 monthly payments on the first day of each month out of any money in  
7 the general fund of the state treasury not otherwise appropriated, the  
8 following annual subsistence allowances to assist in defraying expenses  
9 relating to or resulting from the discharge of the justice's or judge's  
10 official duties, for which no accounting shall be made by such judge:

11 (1) Five thousand five hundred dollars (\$5,500) to the chief  
12 justice of the supreme court.

13 (2) Five thousand five hundred dollars (\$5,500) to the chief judge  
14 of the court of appeals.

15 (3) Three thousand dollars (\$3,000) to each justice of the supreme  
16 court who is not the chief justice.

17 (4) Three thousand dollars (\$3,000) to each judge of the court of  
18 appeals who is not the chief judge.

19 (e) The state shall not furnish automobiles for the use of justices or  
20 judges compensated ~~under~~ as provided in this section.

21 **SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this**  
22 **SECTION, "commission" refers to the public officers**  
23 **compensation commission established by IC 2-8-3-1, as added by**  
24 **this act.**

25 **(b) Notwithstanding IC 2-8-3-3, as added by this act, the term**  
26 **of a commission member expires as follows:**

27 (1) The term of a member appointed by the president pro  
28 tempore of the senate under IC 2-8-3-2(a)(1), as added by this  
29 act, expires July 1, 2006.

30 (2) The term of a member appointed by the speaker of the  
31 house of representatives under IC 2-8-3-2(a)(2), as added by  
32 this act, expires July 1, 2006.

33 (3) The term of a member appointed by the minority leader of  
34 the senate under IC 2-8-3-2(a)(3), as added by this act, expires  
35 July 1, 2005.

36 (4) The term of a member appointed by the minority leader of  
37 the house of representatives under IC 2-8-3-2(a)(4), as added  
38 by this act, expires July 1, 2005.

39 (5) The term of a member appointed by the chief justice of the  
40 supreme court of Indiana under IC 2-8-3-2(a)(5), as added by  
41 this act, expires July 1, 2004.

42 (6) The term of a member appointed by the chief judge of the

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Indiana court of appeals under IC 2-8-3-2(a)(6), as added by this act, expires July 1, 2004.

(7) The term of a member appointed by the governor under IC 2-8-3-2(a)(7), as added by this act, expires as follows:

(A) The terms of two (2) members expire July 1, 2006.

(B) The term of one (1) member expires July 1, 2005.

When making an appointment under this subdivision, the governor shall state, subject to this subdivision, the date when the term of the member expires.

(c) A public officer required to appoint a member of the commission under this SECTION shall appoint the member not later than May 15, 2002.

(d) This SECTION expires July 1, 2006.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 2-8-2, as added by this act, apply throughout this SECTION.

(b) Notwithstanding IC 1-1-1-8, this SECTION and IC 2-8, as added by this act, are not severable.

(c) The commission shall hold its first meeting on a date not later than July 15, 2002, set jointly by the speaker of the house of representatives and the president pro tempore of the senate. The speaker of the house or the president pro tempore, as determined by the speaker of the house and the president pro tempore, shall preside over the commission until the commission elects a commission chair. The commission's first order of business after the commission convenes is election of the commission chair. Notwithstanding IC 2-8-3-5, as added by this act, the member elected as chair under this SECTION serves beginning upon election. The commission may conduct other business at the first meeting.

(d) Notwithstanding IC 2-8-4, as added by this act, the commission shall meet not later than August 15, 2002, to do the following:

(1) Receive information relating to salaries of public officers.

(2) Consider recommendations for suitable salaries for public officers.

(3) Take testimony relating to salaries of public officers.

(4) Adopt, if necessary, proposed rules to set the salaries of public officers.

A proposed rule adopted under subdivision (4) must be published in the October 2002 Indiana Register.

(e) Notwithstanding IC 2-8-4-3, as added by this act, if the commission adopts proposed rules under subsection (d), the

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1 commission shall meet not later than November 1, 2002, to adopt  
2 any final rules based on the proposed rules. A final rule adopted  
3 under this SECTION must be published in the December 2002  
4 Indiana Register.

5 (f) Notwithstanding IC 2-8-4-5, as added by this act, a final rule  
6 adopted under this SECTION takes effect January 1, 2003.

7 (g) IC 2-8, as added by this act, applies to the adoption and the  
8 effect of a rule under this SECTION to the extent that IC 2-8, as  
9 added by this act, does not conflict with this SECTION.

10 (h) Notwithstanding IC 2-8-3-11, as added by this act, the  
11 procedures described in IC 4-22-2 do not apply to a rule adopted  
12 under this SECTION. However, a rule adopted under this  
13 SECTION has the effect of a rule adopted under IC 4-22-2.

14 (i) This SECTION expires January 1, 2005.

15 SECTION 9. An emergency is declared for this act.

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